

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

|                                   |   |                      |
|-----------------------------------|---|----------------------|
| JUAN DAVILA-BAJANA,<br>Plaintiff, | ) |                      |
|                                   | ) |                      |
| v.                                | ) | C.A. No. 04-253 Erie |
|                                   | ) |                      |
| TIM HOLOHAN, et al,               | ) |                      |
| Defendants                        | ) |                      |

**NOTICE AND AUTHORIZATION OR WITHDRAWAL OF ACTION**

AND NOW, this 6th day of July, 2005;

TO THE PLAINTIFF IN THE ABOVE ACTION:

YOU ARE HEREBY NOTIFIED that in order for your case to proceed it will be necessary for you to sign the AUTHORIZATION below. You must return the signed form to the Clerk of the United States District Court for the Western District of Pennsylvania within twenty (20) days of the date of this notice.

By signing the AUTHORIZATION and sending it to the Clerk, you will be agreeing to: 1) authorize the inmate account officer to withdraw from your account the initial partial filing fee and sent it to the Clerk of this court; and 2) authorize the inmate account officer to make the remaining installment payments.

If the Clerk does not receive a copy of this Notice with the AUTHORIZATION signed by you within twenty (20) days, the court will conclude that you do not intend to proceed with your lawsuit and your action will be dismissed for your failure to prosecute. Once the signed AUTHORIZATION form has been received, an order will be entered, directing the inmate account officer to pay the initial partial filing fee and the remaining portion of the fee in installments.

The Prison Litigation Reform Action of 1996, 28 U.S.C. § 1915(g) provides that a prisoner may not bring a civil action or appeal a judgment in a civil action in forma pauperis if the prisoner has, on three or more prior occasions while incarcerated, brought an action or appeal

in a court of the United States that was dismissed on the grounds that it was frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury. If you elect to withdraw the present action it would not be counted as one of the three prior dismissals. You may wish to consider this provision in deciding whether to proceed with this lawsuit. If you do not wish to proceed with this lawsuit you should sign the WITHDRAWAL OF ACTION form below and send it to the Clerk of this court.

S/ Susan Paradise Baxter  
SUSAN PARADISE BAXTER  
Chief United States Magistrate Judge

**AUTHORIZATION**

I, Juan Davila-Bajana, hereby authorize the custodian of my inmate account to withdraw from my account and pay to the Clerk, United States District Court for the Western District of Pennsylvania, the initial partial filing fee of \$37.49, and to make monthly payments of twenty percent (20%) of the preceding month's income credited to my account and to forward payments from my account, each time the amount in my account exceeds \$10.00, to Clerk, United States District Court, until the entire filing fee of \$150.00 for Civil Action No. 04-253 Erie has been paid.

\_\_\_\_\_  
PLAINTIFF

\_\_\_\_\_  
DATE

**WITHDRAWAL OF ACTION**

I, Juan Davila-Bajana, hereby Move to Withdraw this action.

\_\_\_\_\_  
PLAINTIFF

\_\_\_\_\_  
DATE